

1 products containing chlorpyrifos. In the United States, commercially available data reveals that
 2 approximately 8 million pounds of chlorpyrifos is applied to agricultural crops, with
 3 approximately 20 to 25 per cent of annual use occurring on crops in the State of California. Crops
 4 which constitute the majority of chlorpyrifos use in the United States include corn, soybeans,
 5 citrus, almonds, walnuts, pecans, apples, alfalfa and wheat.

6 4. DAS holds the following registrations issued by EPA for products containing
 7 chlorpyrifos:

Registration No.	Product Name
62719-11	Dursban 4E Insecticide
62719-34	Lorsban 15G
62719-47	Dursban TC
62719-65	Dursban 2E
62719-69	Dursban WT Insecticidal Wood Treatment Concentrate
62719-72	Dursban 50W in Water Soluble Packets
62719-77	Lentrek* 6 WT
62719-79	Lock-On
62719-88	Dursban ME20
62719-89	Dursban ME04 Microencapsulated
62719-90	Dursban ME02 Microencapsulated
62719-166	Dursban PRO
62719-210	Dursban 1G Insecticide
62719-220	Lorsban-4E
62719-221	Lorsban 50W Insecticide in Water Soluble Packets
62719-254	Dursban 4E-N
62719-271	Dursban 1F
62719-276	Dursban 2.5G
62719-301	Lorsban* 75WG
62719-351	Dursban HF
62719-352	Dursban W
62719-353	Dursban F
62719-355	Dursban R
62719-364	Dursban 20 MEC
62719-575	GF-1846

26 5. Four other companies hold technical chlorpyrifos registrations. However, DAS
 27 sells the largest volume of products, and these companies are relying on DAS to take the lead in
 28

1 defending their products.

2 6. Chlorpyrifos' health and safety risks have been extensively examined and re-
3 examined by numerous governmental regulatory bodies, including EPA. In the past four decades,
4 millions of dollars have been spent on over 3,600 studies of the potential impact of chlorpyrifos-
5 containing products on human health and the environment. Most of these studies were conducted
6 and funded by DAS, with some contributions from other registrants. DAS continually updates
7 the studies' results with data generated using the newest testing technologies.

8 7. DAS also operates an extensive product stewardship program that supports and
9 advises customers on chlorpyrifos application techniques that minimize risks to people or the
10 environment.

11 8. EPA completed a comprehensive review of chlorpyrifos' safety in September
12 2001, at which time the Agency issued an Interim Reregistration Eligibility Decision ("IRED")
13 for the chemical. In the IRED, EPA determined that chlorpyrifos was eligible for reregistration
14 for agricultural uses. EPA made its reregistration determination contingent upon an assessment
15 of the cumulative risk posed by all organophosphate pesticides – a group of chemically-related
16 pesticides to which chlorpyrifos belongs. That assessment was completed by EPA in July 2006.
17 Shortly thereafter, the Agency finalized the IRED for chlorpyrifos, concluding that the
18 cumulative risk posed by all organophosphate pesticides did not require reconsideration of its
19 September 2001 reregistration decision, and issued a Reregistration Eligibility Document
20 ("RED").

21 9. DAS was an active participant in the reregistration process that culminated in the
22 chlorpyrifos IRED and RED. For example, DAS in January, 1999, filed 210 pages of comments
23 in response of an ecological risk assessment; in September, 1999, filed 270 pages of comments on
24 the preliminary health risk assessment; in December, 1999, filed 172 pages of further comments
25 on those assessments; in January, 2002 filed 137 pages of comments; and throughout the
26 reregistration period provided EPA with numerous shorter comments and communications. DAS
27 also was a party to, and played a major role in negotiating with EPA, a June, 2000 Memorandum
28 of Agreement between EPA and chlorpyrifos registrants that provided for the voluntary

1 cancellation of non-agricultural uses of chlorpyrifos.

2 10. EPA's participation in this lawsuit does not protect DAS' interests. In general,
3 DAS finds itself in an adversarial relationship with EPA. EPA lacks the focused, parochial
4 financial interests that DAS has in defending the chlorpyrifos IRED. Nor does the Agency have
5 DAS' experience and knowledge in the complex business of supplying chlorpyrifos products.
6 Moreover, DAS routinely conducts extensive research on the pesticides it manufactures and thus
7 has special expertise that makes it uniquely able to both defend chlorpyrifos' safety and
8 accurately delineate the pesticide's likely effects on human health and the environment. In short,
9 DAS' has different interests that could lead it to take different positions on certain issues from
10 EPA, including the issue of whether settlement of this case without adjudication is appropriate.

11 11. DAS obtains substantial profits from its sale and distribution of chlorpyrifos
12 products, and by virtue of its defense activities and product stewardship programs has developed
13 a very favorable reputation among its customers and others in the agricultural business. If
14 Plaintiffs prevail in this case, DAS' chlorpyrifos sales are likely to be reduced (or even
15 eliminated), and its customers are likely to view the company negatively for failing to adequately
16 defend its product.

17 12. DAS also would encounter substantial financial burdens if Plaintiffs obtain the re-
18 view of the chlorpyrifos IRED that they seek. Uncertainty about the future availability of
19 chlorpyrifos products likely will lead some of DAS' chlorpyrifos customers to switch to
20 substitutes offered by other companies. DAS also would be forced to incur additional cost to
21 defend chlorpyrifos' safety.

22 13. The value of DAS' registrations for chlorpyrifos products would be significantly
23 reduced if Plaintiffs prevail and EPA imposes additional restrictions on the distribution or use of
24 chlorpyrifos-containing products, or even a total ban on the sale of such products, following a re-
25 view of the September 2001 IRED. Much of DAS' investment in the hundreds of studies that
26 enabled it to obtain and maintain its registrations would be rendered useless. Moreover, if EPA
27 were to reregister chlorpyrifos on the condition that DAS conduct more studies on the pesticide's
28 safety, the cost of meeting such a condition may be so great that DAS would have no choice but

1 to cancel or narrow its registrations.

2 Further declarant sayeth not.

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6 Michael Shaw

11/30/2007
Date

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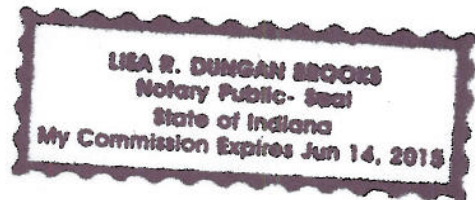
6 Michael Shaw

Date

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8 State of: Indiana

9 County of: Marion

10 On this day personally appeared Michael Shaw, known to me or proved to me under
11 oath to be the person whose name is subscribed to the foregoing instrument . Signed
12 and sworn to before me this 30 day of November, 2007.



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Lisa R. Dungan Brooks

16 Lisa R. Dungan Brooks

17 Notary Public for the State of Indiana

18 Residing at: Hamilton County, Indiana

19 My commission expires: June 14, 2015
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